

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN L ROLLER,

Plaintiff,

v.

LEWIS COUNTY JAIL,

Defendant.

Case No. C06-5699RBL

REPORT AND
RECOMMENDATION

**NOTED FOR:
March 23, 2007**

This 42 U.S.C. § 1983 action has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. Plaintiff has filed a proposed complaint and applied for *in forma pauperis* status. (Dkt. # 1). The application was deficient and the court clerk's office sent plaintiff a letter indicating the application was deficient because plaintiff had not provided a prison trust account, written consent, or service copies and a marshals service form. (Dkt # 2) Plaintiff was given until January 8, 2007, to cure the defects. (Dkt # 2). Plaintiff requested a continuance from the clerk's office and the clerk's office gave him until February 20, 2007, to cure the defects (Dkt. # 3 and 4).

REPORT AND RECOMMENDATION- 1

1 Plaintiff has not responded. The district court may permit indigent litigants to proceed *in*
2 *forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a).
3 However, the court has broad discretion in denying an application to proceed in forma pauperis.
4 Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

5 Based on the above, the Court should deny plaintiff's application to proceed *in forma pauperis*.
6 Plaintiff has not shown that is unable to pay the full filing fee to proceed with his lawsuit. Mr. Roller has
7 failed to comply with the court's instructions and failed to cure the deficiencies in his application. The
8 court should direct Mr. Roller to pay the \$350 dollar filing within 30 days of the court's order and if he
9 fails to pay the filing fee the clerk should be directed to dismiss this matter.

10 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,
11 the parties shall have ten (10) days from service of this Report to file written objections. See also
12 Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for purposes of
13 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule
14 72(b), the clerk is directed to set the matter for consideration on **March 23, 2007**, as noted in the
15 caption.

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17 DATED this 27 day of February 27, 2007.

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19 /S/ J. Kelley Arnold
20 J. Kelley Arnold
21 United States Magistrate Judge
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